UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,558	12/14/2001	William P. Price	A0819	3759

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EXAMINER
LASTRA, DANIEL

ART UNIT	PAPER NUMBER
3688	

MAIL DATE	DELIVERY MODE
02/23/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	*10/022,558*	PRICE ET AL.
	Examiner	**Art Unit**	
	DANIEL LASTRA	3688	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>29 June 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3 </u>months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

                /DANIEL LASTRA/
                Primary Examiner, Art Unit 3688

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant argues that the prior art do not teach the user profile comprising an interest parameter indicative of an estimated time interval during which the corresponding user is predicted to continue viewing the audiovisual advertisement. The Examiner answers that Applicant's specification paragraph 39 explain said limitation by disclosing "The preference determination module 60 can generate a user profile 80 comprising an interest parameter which is indicative of an estimated time interval during which the user is predicted to continue viewing a particular audiovisual advertisement 30. In such embodiments, the user input 70 comprises a plurality of viewing decisions which the user previously made when other advertisements 30 were displayed. In response to a displayed advertisement 30, these viewing decisions may be to watch the advertisement 30, change the channel, investigate the EPG information 130, or otherwise ignore the advertisement 30". Cristofalo teaches in paragraphs 34 and 48 that his system may generate user profiles based upon web page hits, user viewing habits (for example, compilation thereof provided by a cable operator or via TiVO unit) and programming choices. Therefore, in Cristofalo, a user's profile that indicates that a user is a Kansas state fan would predict that a user would continue viewing a national championship football game between Kansas State University and Virginia Tech and said fan would probably be interested in receiving an audio broadcast and advertisements which are oriented towards their team during the broadcasting of said game (see Cristofalo paragraph 50). Therefore, contrary to Applicant's argument, Cristofalo teaches Applicant's claimed invention. The Applicant argues that Cristofalo objects are presented concurretly, not sequentially with one another and are not presented in appropriate order.   The Examiner answers that the talking head (see paragraph 32) speaks media objects sequentially, in order and based on a common subject, such a commercial (parag 35). Therefore, contrary to Applicant's argument, Cristofalo teaches Applicant's claimed invention. The Applicant argues that the prior arts do not teach seleecting segments based on the length of the stored segments in response to interest. The Examiner answers that Cristofalo does not teach wherein the metadata is indicative of the length of the audiovisual advertising segment and retrieving a plurality of stored audiovisual advertising segments from the storage subsystem based on the lengths of the stored audiovisual advertising segments. However, Klarfeld teaches that if the program being watched by a viewer contains information regarding the length of the commercial break, the preference agent may select stored ads of the same type (i.e. same viewer's demographic metadata) of appropriate length (i.e. advertising segments) to insert in the allotted time slot (see paragraph 241). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Cristofola's metadata would include the length of an advertising segment, as taught by Klarfeld in order to synchronize the targeting of ads.